

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
AT MARTINSBURG

JAIME DURAN,  
Petitioner,

v.

Civil Action No. 3:05CV46  
(BROADWATER)

DOMINIC GUTIERREZ, Warden,  
Respondent.

**ORDER ADOPTING REPORT AND RECOMMENDATION**

On this day the above styled matter came before the Court for consideration of  
Magistrate Judge James E. Seibert's Report and Recommendation, filed on August 30, 2005.  
The petitioner did not file objections to the Report.

In his Report Magistrate Judge Seibert indicates that the Petitioner has failed to pay the  
\$5.00 filing fee or file a motion to proceed without payment of fees. Accordingly, the  
Magistrate's Report and Recommendation is hereby **ORDERED** adopted. The above styled  
Petition is **DISMISSED WITHOUT PREJUDICE**. This matter is **ORDERED STRICKEN**  
from the active docket of this Court.

The Clerk is directed to transmit true copies of this Order to the Petitioner and all counsel  
of record herein.

It is so **ORDERED**.

**DATED** this 4<sup>th</sup> day of May 2006.

  
W. CRAIG BROADWATER  
UNITED STATES DISTRICT JUDGE